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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,780	10/18/2001	Victor I. Deonarine	ITW7510.005	5444

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EXAMINER	
COTTINGHAM, JOHN R	
ART UNIT	**PAPER NUMBER**
3679	

DATE MAILED: 05/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/682,780	DEONARINE, VICTOR I.	
	Examiner	Art Unit	
	John R. Cottingham	3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-26 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-26 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Fox U.S. Patent 4,875,782. Fox shows all of the claimed subject matter of an apparatus in figures 1-3.

Regarding claim 1, an apparatus to reposition a temperature indicator stick 26, the apparatus comprising: a housing (lower portion of 10) having an outer surface and an inner chamber to receive a temperature indicator stick 26 therein; an advancement mechanism 22 positioned about the outer surface of the housing and capable of contact with a temperature indicator stick 26 positioned in the chamber of the housing to advance the temperature indicator stick 26 with motion applied to the advancement mechanism.

Regarding claim 2, further including a resistance mechanism (lower portion of 22) configured to prevent rotation of the temperature indicator stick.

Regarding claim 3, wherein the advancement mechanism 22 advances the temperature indicator stick one of into the housing and out of the housing.

Regarding claim 4, wherein rotatable motion applied to the advancement mechanism advances the temperature indicator stick. (by motor 12)

Regarding claim 5. The apparatus of claim 1 wherein the temperature indicator stick has at least one ridge (threads) configured to engage the advancement mechanism.

Regarding claim 6, wherein the advancement mechanism has one or more threads.

Regarding claim 7, wherein the housing (lower portion of 10) has a tapered end to align the temperature indicator stick with the one or more threads. (the narrowed and wider parts of the chamber)

Regarding claim 8, wherein the advancement mechanism 12 is rotatably fixed to the housing.

Regarding claim 9, wherein the advancement mechanism 22 is a collet having threads.

Regarding claim 10, a temperature indicator stick extension and retraction apparatus comprising: means for aligning a temperature indicator stick 26 to permit axial movement; and means 22 for controlling axial movement of the temperature indicator stick to extend and retract the temperature indicator stick.

Regarding claim 11further comprising a means (lower portion of 22) for preventing rotational movement of the temperature indicator stick 26 during the axial movement.

Regarding claim 12, wherein the means for preventing rotational movement is a plurality of flanges configured to engage a ridge of the temperature indicator stick.

Regarding claim 13, further comprising a means for accumulating residue of the temperature indicator stick upon axial movement of the temperature indicator stick. (threads engaging the threads on the stick)

Regarding claim 14, wherein the means (upper part of the chamber) for accumulating residue comprises forming the temperature indicator stick in a non-circular shape to have a volume of space in the means for controlling movement of the temperature indicator stick.

Regarding claim 15, wherein the means for controlling movement of the temperature indicator stick includes a rotatable collet 22 having a threaded portion configured to engage the temperature indicator stick.

Regarding claim 16, wherein the means for controlling allows extension and retraction of the temperature indicator stick with a single motion.

Regarding claim 17, wherein the means for aligning a temperature indicator stick includes a housing 10 (lower portion) having an outer surface and an inner chamber to receive a temperature indictor stick therein.\

Regarding claim 18, an apparatus to extend and retract a temperature indicator stick, the apparatus comprising: a housing (lower portion of 10) having at least one annular ring at one end 14 and adapted to receive within the housing a temperature indicator stick 26; a resistance mechanism (lower portion of 22) secured to the housing to oppose rotational movement of the temperature indicator stick 26; and a collet 22 having threads and rotatably coupled to the at least one annular ring of the housing, the collet 22 configured to engage the temperature indicator stick 26 upon rotation of the collet about the housing. (the housing is only view as the lower half).

Regarding claim 19, wherein a pair of annular rings 14 couples the collet 22 to the housing.

Regarding claim 20, wherein the resistance mechanism includes a series of flanges connected to an interior of the housing. (lower portion of 22 has multiple flanges)

Regarding claim 21, wherein the temperature indicator stick has at least one ridge (threads) configured to engage the threads upon rotation of the collet 22 to cause one of extension and retraction of the temperature indicator stick from the housing.

Regarding claim 22, wherein the housing is contoured (the bearing portion) at one end to align the threads of the collet with the at least one ridge of the temperature indicator stick.

Regarding claim 23, wherein the temperature indicator stick is ovally shaped.

Regarding claim 24, an apparatus to reposition a temperature indicator stick 26, the apparatus comprising: a housing (lower portion of 10) having an inner chamber directed along a generally longitudinal axis to receive a temperature indicator stick 26 therein; and a transducer 22 which is mounted to the housing and rotatable about the generally longitudinal axis, the transducer 22 engaging the temperature indicator stick 26 to convert such rotatable motion to linear repositioning of the temperature indicator stick along the generally longitudinal axis.

Regarding claim 25, a kit to reposition a temperature indicator stick, the kit comprising: a housing (lower portion of 10) having an inner chamber to receive a first indicator stick 26, the first indicator stick 26 being shortened in normal use; an advancement mechanism proximate to the housing and capable of contact with the first temperature indicator stick positioned in the inner chamber of the housing to advance the first temperature indicator stick with motion applied to the advancement mechanism; and

a second indicator stick 36 which may replace the first indicator stick in the inner chamber. (The 2nd stick 36 enters the chamber as the 1st stick 26 leaves)

Regarding claim 26, an apparatus to reposition a temperature indicator stick, the apparatus comprising: a housing (lower portion of 12) having an inner chamber to receive a temperature indicator stick 26 therein; and means22 for advancing the temperature indicator stick by a rotating motion about the housing.

Response to Arguments

3. Applicant's arguments filed 1/4/2004 have been fully considered but they are not persuasive. The applicant argues more than what is being claimed, and is trying to read more limitations into the claims than what is actually claimed. Applicant argues that the temperature indicator stick is different than that shown by Fox, and one of ordinary skill in the art would know the difference. The examiner disagrees with this point of view, the claims are read in their broadest interpretation and in that view Fox meets all of the claimed limitation as described above. The Applicant does not claim how the indicator stick works to differentiate it from the prior art of record, as it stands the temperature indicator stick, as claimed, is only a name of an item and does not give extra breath and meaning to the claims.

Applicant argues that screw 30 prevents the gear 22 from contacting the temperature indicating means and thus does not meet the claimed limitations. The examiner disagrees, because it is interpreted that the screw is integral with the temperature indicating means and meets the claimed limitations.

Next, Applicant argues that mechanism 22 is positioned inside the outer surface of the housing. The examiner disagrees, the housing, in Fox, is viewed as only the lower solid section which would meet the claimed limitations. Also Applicant argues that driven gear 22 of Fox is not secured to the housing nor is it constructed to oppose rational movement of the temperature probe 26. The examiner disagrees with this point of view as well. The gear is secured to the housing through bearing 24.

Applicant further argues that "gear 22 is capable of rotation... but being rotatable relative thereto is not rotatable thereabout." The term "thereabout" is also a relative term and it depends on the point of reference, there are point on the housing that would have a reference of the gear rotatable thereabout meeting the claimed limitation.

Lastly, the Applicant argues that the temperature indicator means of Fox is not consumed during use. This is a functional limitation, and Fox only needs to be capable of performing this limitation, and if the material is hot enough, it will consume the temperature indicator means of Fox.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John R. Cottingham whose telephone number is (703) 306-3439. The examiner can normally be reached on Monday - Thursday, alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703) 308-2686. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

John R. Cottingham
Primary Examiner
Art Unit 3679

jrc